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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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CRISTAL HATCH BLACK,

Plaintiff,

v.

NANCY A. BERRYHILL,

Defendant.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Case No. 2:17-cv-00153-JNP-EJF

District Judge Jill N. Parrish

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Plaintiff Cristal Hatch Black filed this action asking the court to remand the final agency decision denying her Disability Insurance Benefits and Social Security Income Under Titles II and XVI of the Social Security Act. This matter was referred to Magistrate Judge Evelyn J. Furse under 28 U.S.C. § 636(b)(1)(B).

The matter was fully briefed, and after review of the parties' briefings, Judge Furse issued a Report and Recommendation (ECF No. 22). Judge Furse recommends that the court remand the Commissioner's decision. The Report and Recommendation specified that the parties should file objections within fourteen days of service. No objections were filed, and the time to object has now passed. Because no objections were filed, the court reviews the record for "clear error." *See* Fed. R. Civ. P. 72(b) advisory committee's note (1983) (citing *Campbell v. U.S. Dist. Court for N. Dist. of Cal.*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879).<sup>1</sup>

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<sup>1</sup> The Tenth Circuit has adopted the "firm waiver" rule. *United States v. One Parcel of Real Prop., With Bldgs., Appurtenances, Improvements, & Contents*, 73 F.3d 1057, 1059 (10th Cir. 1996). Under this rule, "the failure to make timely objections to the magistrate's findings or recommendations waives appellate review of both factual and legal questions." *Id.* (quoting *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991)). Precluding appellate review of any

Based on the court's review of the record, the relevant legal authority, and the Report and Recommendation, the court concludes that there is no "clear error" with respect to the Report and Recommendation. Accordingly, it is HEREBY ORDERED:

1. The Report and Recommendation (ECF No. 22) is ADOPTED IN FULL;
2. The Commissioner's decision is REMANDED for further proceedings consistent with the Report and Recommendation.

Signed March 22, 2018

BY THE COURT



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Jill N. Parrish  
United States District Court Judge

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issue not raised in an objection "prevents a litigant from 'sandbagging' the district judge by failing to object and then appealing." *Thomas v. Arn*, 474 U.S. 140, 147-48 (1985).